

Dow AgroSciences LLC
9330 Zionsville Road
Indianapolis, IN 46268-1054

IO13764
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308 Building/2A
February 21, 2003



Document Processing Desk - 6(a)(2)
Office of Pesticide Programs - 7504C
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, NW
Washington, DC 20460-0001

RE: FIFRA § 6(a)(2) Report
Vikane* Gas Fumigant
EPA Registration Number: 62719-4
Active Ingredient: Sulfuryl Fluoride
CAS Registry Number: 002699-79-8
DERBI Number: 104598
State: FL
Severity Category: H-A

Dow AgroSciences submits the following information in response to its understanding of the U.S. Environmental Protection Agency's interpretation of FIFRA § 6(a)(2). However, Dow AgroSciences has not concluded that this information regards an "unreasonable adverse effect on the environment" or that it is reportable under FIFRA § 6(a)(2).

Dow AgroSciences received the enclosed information for an incident originally reported to the Agency on January 17, 2002 with supplemental reports submitted on March 23, 2002 and May 13, 2002.

If you wish to discuss this matter further, please call us.

updates IO 12416
IO 12866

Regards,

Shannon Bass

Shannon Bass
EH&S Global Product Leader
(317) 337-4983

Prepared by:

Stacey Fruits

Stacey Fruits
Product Stewardship Administrator
(317) 337-4577

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*copied for J. Blondell
3/5/2003*

This is an update with information regarding the death of [REDACTED] at a fumigation done by Al-Flex Exterminators, that occurred at a Miami Beach Apartment complex on January 9, 2002.

Late in November of 2002, a press release was issued by the Department of Agriculture and Consumer Services (DACS) announcing the resolution of their case against Al-Flex. On its 3r. paragraph it reads: *"As a result of intensive investigation by the Department and the assistance of the Chief Medical Examiner for Miami-Dade County, the Department has determined that Al-Flex did not violate any fumigation safety rules in their fumigation procedures. The city of Miami Beach has previously closed the investigation of this death as a suicide, and the Administrative charges against Al-Flex and its employees have been dismissed."*

Earlier in June, DACS had charged Al-Flex with several counts of violating label directions and state fumigation guidelines. Based on conversations I recently had with Alex Napoles, President and owner of Al-Flex and Mr. Hochmann, his attorney I learned the following information which may explain why DACS reversed its earlier conclusions.

According to **Howard Hochmann**, an attorney retained by Al-Flex to defend them in this case, It appears that [REDACTED] did break into his own apartment several hours after the fumigant had been introduced. Evidence of this forced entry had been reported by the Miami Police department; however, this information was not made available to the DACS inspectors. As a result, the inspectors may have incorrectly concluded that [REDACTED] was in the structure prior to the fumigant's introduction. Hochmann also obtained accounts from witnesses at a nearby convenience store, who allegedly saw [REDACTED] purchasing beer late during the evening of January 8. Again, several hours after the fumigant had been introduced.

Furthermore, a new autopsy requested by Howard Hochmann was conducted by **Dr. Bruce Hyme**, Chief Medical Examiner for Miami-Dade County. According to Mr. Hochmann, the autopsy revealed [REDACTED] This was not revealed on the original autopsy report dated 4/10/02 conducted by L. Wallis and R. Fernandez, Associate Medical Examiners. [REDACTED] Hochmann was told by Dr. Hyme that this combination can in itself become toxic. Also, Dr. Hyme shared with Howard Hochmann, some police cases that he is personally aware of, involving decreased sensitivity to tear-gas by individuals on certain type of drugs. Hochmann told me that Dr. Hyme would be willing to share this information with Dow AgroSciences.

As a result of this case, DACS apparently has made internal changes on how they will handle fatalities in the future. They will send the DACS police--rather than regular inspectors to investigate. These are individuals that are trained in detective work.

Janet Norton, I'd like to request your assistance in submitting some of this information as a supplement to the 6(a)(2) report I submitted on 1/11/02. Also I don't know who would be the most appropriate person within DAS to contact Dr. Bruce Hyme. Both the updated autopsy report, and the information he seems to have about sensitivity to tear gas could be useful to DAS. Perhaps Dr. Brownson? Here's how he can be contacted:
DR. BRUCE HYME, CHIEF MEDICAL EXAMINER, 1 BOB HOPE RD. MIAMI, FL 33136. TEL: 305-545-2400.

Personal privacy